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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 WILLIAM R. LYONS,

10 Petitioner,

11 vs.

12 ISIDRO BACA, *et al.*,

13 Respondents.

Case No. 3:14-cv-00173-HDM-WGC

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15 **ORDER**

16 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
17 by a Nevada state prisoner. By order filed January 22, 2015, the Court dismissed this action with
18 prejudice as untimely. (ECF No. 22). The Court's order also denied petitioner a certificate of
19 appealability. (*Id.*). The Clerk's judgment was entered the same date. (ECF No. 23).

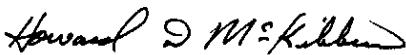
20 On February 13, 2015, petitioner filed a motion for a certificate of appealability. (ECF No.
21 24). Respondents oppose petitioner's motion. (ECF No. 25). In order to proceed with his appeal,
22 petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th
23 Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir. 2006); *see also United States v.*
24 *Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a petitioner must make "a substantial
25 showing of the denial of a constitutional right" to warrant a certificate of appealability. *Id.*; 28
U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). "The petitioner must
26 demonstrate that reasonable jurists would find the district court's assessment of the constitutional
27 claims debatable or wrong." *Id.* (*quoting Slack*, 529 U.S. at 484). In order to meet this threshold
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1 inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of
2 reason; that a court could resolve the issues differently; or that the questions are adequate to deserve
3 encouragement to proceed further. *Id.* In the instant case, petitioner reasserts the same arguments
4 he asserted in his petition and in his opposition to the motion to dismiss. The Court has addressed
5 and rejected petitioner's arguments in the order filed January 22, 2015. (ECF No. 22). No
6 reasonable jurist would find this Court's dismissal of the petition debatable or wrong. The Court
7 therefore denies petitioner's motion for a certificate of appealability.

8 **IT IS THEREFORE ORDERED** that petitioner's motion for a certificate of appealability
9 (ECF No. 24) is **DENIED**.

10 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL TRANSMIT** this order to
11 the Ninth Circuit Court of Appeals forthwith.

12 Dated this 10th day of March, 2015.
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15 HOWARD D. MCKIBBEN
16 UNITED STATES DISTRICT JUDGE
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